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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,367	04/26/2007	Dieter Ramsauer	135408-2036	8433

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745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

FULTON, KRISTINA ROSE

ART UNIT	PAPER NUMBER
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3674

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03/30/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/587,367	Applicant(s) RAMSAUER, DIETER	
	Examiner KRISTINA R. FULTON	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) 22, 24 and 31-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23 and 25-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the RCE filed 12/15/2010.

Double Patenting

1. Claims 23, 26-30 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 28-29, 31-34 of copending Application No. 10/590638. Although the conflicting claims are not identical, they are not patentably distinct from each other because each requires a latch with a head part, body part, and holding elements that function in the same manner as claimed.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

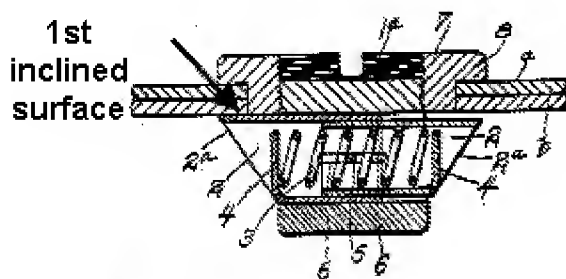
Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 23, 26, 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by (Witzberger US 1426239).
2. Regarding claim 23, Witzberger teaches a snap fastening suitable for mounting in a thin wall (plates a,b) having a head part (8) arranged on one, outer side of the thin wall which overlaps an outer rim of the opening, a body part (1) which projects through the opening in the mounted position, holding elements (2) which project from the body

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part and are resilient in a direction of the body part's outer surface against a spring force (3), a free end of the holding elements being provided with a first inclined surface (see figure below – Please note that “inclined” is defined as “tending in a direction that makes an angle with anything else” –source: Dictionary.com. Therefor without a reference the surface as labeled below can be considered inclined. Further, please note that if applicant intended to claim that the surface is inclined with respect to the wall; please see applicant's provided art 883121 where surface 22 is at an incline. Please note that 883121 is used for support and is not part of the rejection) for supporting the body part without play on the rim wherein the first inclined surface rests on the rim of the opening in the mounted position wherein said free end of said holding elements being further provided with a second inclined surface (2a) for slam action, said body part, holding element and spring generating the spring force being separate parts; wherein the holding elements are slides displaceable in the cylinder of the body part parallel to the plane of the thin wall; the slides are held against a pressure spring force (3) by a hook arrangement (slots 6 hook onto pin 5).



3. Claim 26 is rejected as applied to claim 23 above where the holding elements are held by a pin arrangement (5/6)

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4. Regarding claims 29-30 the cylinder has an opening edge where (the edge where the slides extend from) the slides are supported axially by a shoulder or hook (they are hooked at 5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 25 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witzberger.

8. Regarding claim 25, Witzberger is silent to the load applied to the holding elements and the material used to make the elements. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the device from plastic as it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*. Please note that plastic can be considered rigid and/or flexible. A

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flexible plastic can be considered rigid as it will hold its form without a force. Making the device from plastic is well known in the industry for effective cost and functionality.

Allowing one holding element to be made of a different material (more rigid) would assure better support for supporting the load.

9. Regarding claims 27-28, Witzberger shows applicant's inventive concept of a latch with sliding holding elements but fails to show screws screwed into the head arrangement to regulate movement of the holding elements but Witzberger shows pin 5 performing this same function. Using screws to secure the sliding members as opposed to a pin would have been obvious to one of ordinary skill in the art since replacing one known securing means (pin) with another known securing means (screws) is considered to be within the level of ordinary skill in the art and would yield predictable results.

Response to Arguments

Applicant's arguments filed 10/6/2010 are moot in view of the newly applied rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINA R. FULTON whose telephone number is (571)272-7376. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KRISTINA R FULTON/
Examiner, Art Unit 3673
3/25/11